BOB WISE
Governor
Insurance Commissioner

JULY 2004

WEST VIRGINIA INFORMATIONAL LETTER

NO. 148

TO: All Insurance Companies Licensed to Transact Property and Casualty Insurance in West Virginia and All Other Interested Persons

RE: Reunderwriting Policies of Property Insurance

The purpose of this informational letter is to clarify the position of the Office of the Insurance Commissioner pertaining to the permissibility and scope of "reunderwriting" of policies of property insurance in West Virginia.

Reunderwriting in the context of this letter means, generally, the practice or process of inspecting, in whole or in part, the premises or property insured under a property insurance policy for the purpose of ascertaining condition, replacement cost and/or acceptability.

It has recently come to the attention of the Office of the Insurance Commissioner that certain insurance companies writing policies of property insurance in our State are under the impression that inspecting and/or reunderwriting, and making subsequent amendments or changes to a policy of property insurance once the policy has been in existence for four or more years, would be in violation of West Virginia Code Section 33-17A-4(c). Their reasoning is that an insurer violates West Virginia Code Section 33-17A-4(c) if a property insurance policy, having been in existence four years or longer, is renewed with coverage or limits that are not identical to those found in the expiring policy.

It is the position of the Office of the Insurance Commissioner that insurance companies issuing policies of property insurance subject to Article 17A are expressly authorized to make amendments or modifications to coverage or limits at renewal. However, those amendments or modifications must be reasonable and directly related to the hazard involved.

¹ West Virginia Code Section 33-17A-4(c) provides in pertinent part that: "no insurer shall fail to renew an outstanding property insurance policy which has been in existence for four years or longer except for the reasons as set forth in section five of this article; or for other valid underwriting reasons which involve a substantial increase in the risk."

Statutory guidance for this agency's position is drawn from West Virginia Code Section 33-17A-3(d) which provides that although a termination of a policy of property insurance includes the nonrenewal of property insurance coverage, in whole or in part, a termination shall not preclude an insurer from making "reasonable changes in the amount of insurance or reasonable reductions in policy limits or coverage . . . if the requirements (changes/reductions) are directly related to the hazard involved."

Applied to the question of whether it is permissible for an insurer to inspect/reunderwrite a property insurance policy and make subsequent changes/reductions in coverage or limits based upon the results of the inspection/reunderwriting, it appears that the Code clearly allows this practice subject to the aforementioned restrictions. Implicit within this statutory provision is a requirement that the company establish, by sufficient and credible evidence, a change or alteration in the condition or value of the property to warrant the amendment.

The above notwithstanding, the Office of the Insurance Commissioner is aware that certain insurance companies transacting property insurance in West Virginia apparently are already aware of this provision in our law and are actively engaged in inspecting/reunderwriting all or a portion of their book of business in our State. Based upon a review of this agency's consumer complaint files, the majority of the inspections/reunderwritings have resulted in increases in coverage or limits. Presumably, the increases were necessitated due to the increased anticipated cost to repair or replace the property insured. While undergoing this process, these insurers are advised to remain cognizant of the requirements of West Virginia Code Section 33-17A-3(d), in that any change must be both reasonable and in direct relation to the hazard involved.

If you have any questions relating to this Informational Letter, you may contact Jack Rife, Director of Rates and Forms Division at 304-558-2094, ext. 117.

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